

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING

NOVEMBER 21, 2001

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

TABLE OF CONTENTS

Call to Order.....	1
Members Present	1
Members Absent.....	1
Adoption of Agenda.....	1
APPROVED AS PRESENTED.....	1
Demand for Hearing – Clarke County – Swine Graphics Enterprises – ADLV Sow Farm	1
PERMIT UPHELD	5
General Discussion	5
Adjournment.....	6

MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairman Townsend at 8:30 a.m. on Wednesday, November 21, 2001, in the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

James Braun
Lisa Davis Cook
Lori Glanzman
Darrell Hanson
Kathryn Murphy, Vice-Chair
Kelly Tobin
Terrance Townsend, Chair
Rita Venner, Secretary

MEMBERS ABSENT

Gary Priebe

ADOPTION OF AGENDA

Terry Townsend read the items on the agenda for the benefit of the other Commissioners.

Motion was made by Kathryn Murphy to approve the agenda. Seconded by Lori Glanzman. Motion carried unanimously.

APPROVED AS PRESENTED

Carol Arpy took roll call:
Terry Townsend – Present
Kathryn Murphy – Present
James Braun – Present
Lori Glanzman – Present
Lisa Davis Cook – Present
Kelly Tobin – Present
Rita Venner – Present
Darrell Hanson – Present
Gary Priebe - Absent

Terry Townsend said that he felt it was appropriate to limit the remarks to those of the Commission, Department, Clarke County Official, and Swine Graphics Representative.

DEMAND FOR HEARING – CLARKE COUNTY – SWINE GRAPHICS ENTERPRISES – ADLV SOW FARM

Michael Murphy, Bureau Chief, Compliance and Enforcement Bureau, presented the following item.

On October 5, 2001, the department issued a Notice of Intent to Issue a Permit, and draft Construction Permit to Swine Graphics Enterprises – ADLV Sow Farm, Project No. 20-00-4-11. The project is a five confinement barn swine feeding operation with shallow below-building pits and a two-cell anaerobic lagoon, with an animal capacity of 3,097 breeding/gestation, 250 gilts, and 480 farrowing, or 1,504,800 lbs. The facility would be located in the SE ¼, SW ¼ of section 26, T73N, R27W [Madison Township], Clarke County, Iowa.

Notice of this action was delivered to the Clarke County Board of Supervisors on October 5, 2001. On October 19, 2001, that Board notified the department by facsimile of its intent to demand a hearing and the demand for hearing was mailed to the department on October 19, 2001. A summary of legal provisions and pertinent documents relating to the demand and the department's and/or permittee's response to it have been provided to the Commission.

The Commission is requested to review this matter and render a decision by November 23, 2001, which is 35 days from the date the County filed a demand for hearing.

Terry Townsend asked if the Department would like to make any additional comments.

Director Jeff Vonk said from the Department's has the legal and technical staff available to answer any questions the Commission may have.

Jeff Vonk said in summary of Monday's meeting it was the Department's recommendation to issue the permit with the condition that Swine Graphics would not be able to populate the facility until the water supply issue was 100% addressed. The Commission after lengthy discussion and questioning voted four to two in favor of not issuing the permit until the water supply was fully accounted for. The motion did not pass because of the rules of the Commission there has to be five votes in the affirmative or negative to pass or defeat a resolution.

Terry Townsend asked if any of the Commissioners had any questions for the Department.

Lori Glanzman asked if the letter from Southern Iowa Rural Water Association was a guarantee by them to supply Swine Graphics with rural water in 2002.

Jeff Vonk said it is the intention of Southern Iowa Rural Water Association to do their expansion plans on the time frame that they outline but it is not a guarantee.

Lori Glanzman said if they do get rural water they would probably have a limit for the amount of water they can purchase per month.

Jeff Vonk said he does not know that but the letter states that Southern Iowa Rural Water Association anticipates lifting the ban that is currently in place on commercial entities.

Reza Khosravi said he spoke to a representative of Southern Iowa Rural Water Association on Tuesday, November 20, and was told the water will be there no sooner than the spring of 2002.

When asked about any limitations they told him that there would be limitations due to a lack of water supply but were unable to say how many gallons of water Swine Graphics would be limited to.

Gary Myers, attorney for Swine Graphics said he had additional information that he thought would be helpful. He said it seemed to him the focus of the discussion was on the lack of adequate water. This is a sow farm with an anaerobic lagoon and according to 65.15(13) the source of the dilution water discharged to the anaerobic lagoon shall be identified. When Reza first looked at the issue of water he looked at three different elements of water need, one for the initial loading of the lagoon, one for dilution water, and one for drinking and washing water. Swine Graphics is planning to build two ponds that will contain a total of 23.5 acre-feet of water. The amount of dilution water needed is 7.88 acre-feet of water. According to these figures there is more than enough water to meet the requirements of the rule. The initial loading of the lagoon, which will require 9.15 acre-feet is a separate issue according to the rules and needs only to be shown prior to discharge into the lagoon. The third element looked at is drinking and washing water which will require 17.1 acre-feet. When adding together the dilution water and the drinking and washing water the deficit for ongoing operations based on Reza Khosravi's calculations would have been 1.4 acre-feet. He said on Monday there was discussion about how speculative the identified sources of water were. The fact is that it doesn't really matter whether or not rural water is ever available because in a flaw in the way the calculation was done. Reza Khosravi looked at dilution water and drinking and washing water as separate items when in fact drinking and washing water become dilution water in the lagoon. He explained that when the hogs excrete manure on the floor of the confinement building, the floor has openings and is washed down with water and the manure goes through the openings into a deep pit. Over time the pit fills up with the water manure mixture. Also there are troughs where hogs drink from which spills over and is added to the mixture in the deep pit. Once the pit fills to a certain level there is a plug that is pulled that leads into a tile line and the manure water mixture flows out into the lagoon. The wastewater from the drinking troughs and from the washing actually becomes dilution water for the lagoon. Therefore within the 17.1 acre-feet of drinking and wash water is the needed dilution water, so you don't need an additional 7.88 acre-feet for dilution. He asked Reza Khosravi to confirm that what he had said was accurate.

Reza Khosravi said he would first like to describe how the needed water amount is calculated. This facility has an animal weight load of 1,504,800 pounds, the Department figures that a facility such as this one needs 1.5 gallons of water per 100 pounds, therefore the facility would need 22,572 gallons of water per day. This calculates to 8,000,000 gallons of water per year, which is equivalent to 25.2 acre-feet. According to these calculations the amount of water available from the two farm ponds is not enough for ongoing operations. However, Swine Graphics contacted him and said they had documentation that they did not need that amount of water per day based on what their water usage is in the other facilities. Reza said he reviewed the documentation and accepted Swine Graphics figures, but by using those figure there is no way to know how much is for dilution and how much is for use of animals. Given the information received from Swine Graphics they are still short 3.17 acre-feet to be able to populate but from the second year on they would have enough water.

Jeff Vonk asked if the Department would use the same procedure that Reza Khosravi initially used to calculate water needs for other facilities of this sort.

Reza Khosravi said they would.

Jeff Vonk asked if based on those calculations did Swine Graphics have enough water for regular operations.

Reza Khosravi said they did not.

Gary Myers said he thought Reza Khosravi had agreed that after the initial loading Swine Graphics would not be short. He said all of the Swine Graphics facilities have been built the same way.

Jeff Vonk said that Swine Graphics was asking the Department to analyze the water needs as a whole unit instead of in three separate categories as is done in every other permit application. He said at this point if the Department wants to change the procedure he believes they should go to AACO and establish a new procedure.

Gary Myers said the rule states that only the source of dilution water needed to be identified for the permit.

Darrell Hanson said he knows it is impossible for staff to predict what type of questions a group like this Commission may have in a meeting, however the Commission has been told a couple of times that their role in these hearings is relatively narrow and that is to look at the process and standards used for the permit to see if they comply with the statute and the rules. He said it seems to him that the first question that would come up is 'what are the rules' so he was a little disappointed at Monday's meeting that it was a question that no one was prepared to answer. They did get the rules during the meeting and he had to read through them quickly. However after reviewing the rule he has come up with the same question as Swine Graphics, if you look at the narrow question of what does the rule require it does not say drinking water.

Terry Townsend said after reading the rules more completely he agrees that drinking water is not included.

Lisa Davis Cook said it is her recollection from the comments made this morning by the Department that they are still short of water.

Darrell Hanson said the way the rule reads is that there is a requirement to get the permit, and there is another requirement to be allowed to begin discharging manure, but they are two different things. In order to begin discharging manure you have to show that you have enough water to load the lagoons. That says to him that you do not have to prove that you can load the lagoons before you can get the permit. There were three different categories of water looked at, so with the loading taken out of consideration in terms of giving the permit that leaves the dilution water and the drinking and washing water. It is very clear that they have to prove that they have enough dilution water before they get the permit, and if they do not have a permit they

cannot build. Swine Graphics has not proven that they have enough drinking and dilution water if those categories are combined but the rule does not require that they show they have enough water for drinking before they get the permit.

Lisa Davis Cook asked if the Commission tells Swine Graphics that they can go forward with building the facility who would be watching to make sure they don't populate before they have met the other requirements.

Darrell Hanson said the Department rules do provide for that when they say that the lagoons must be loaded prior to discharging any manure.

Gary Myers said Swine Graphics has identified a source of initial lagoon loading water and the concern was that some of them are speculative. The fact is 61 acre-foot pond at ADL 4 already exists and if they have to haul the water from there to the other site they will do just that.

Kelly Tobin said he still has a problem with the lawsuit being settled at the last minute.

Terry Townsend said he sees that as a positive because there are some cases that take months to get settled.

Motion was made by Rita Venner to uphold the permit. Seconded by Kathryn Murphy.

Rita Venner said she would like to say that she feels that the DNR has done their work on this permit. She said she doesn't feel that the Commission should base their vote on their frustration with the rules. If they are not happy with the rules as they are they need to lobby their legislators. Nor can they base their vote on an assumption of what might happen.

Roll call vote went as follows: Kathryn Murphy – Aye; James Braun – Nay; Lori Glanzman – Aye; Lisa Davis Cook – Nay; Kelly Tobin – Nay; Rita Venner – Aye; Darrell Hanson – Aye; Terry Townsend – Aye.

PERMIT UPHELD

GENERAL DISCUSSION

Terry Townsend said the Commission discussed on Monday meeting in Boone for the December 17th meeting so that they could tour a coal tar reclamation project that is going on in the area. The tour would take an hour, so it has been suggested that the tour begin around 9:30 and the meeting would then begin at 11:00.

ADJOURNMENT

Motion was made by Darrell Hanson to adjourn. Seconded by James Braun. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Townsend adjourned the meeting at 9:20 a.m., Wednesday, November 21, 2001.

Jeffrey R. Vonk, Director

Terrance Townsend, Chair

Rita Venner, Secretary

INDEX

A

Adjournment, 6

Adoption of Agenda, 1

C

Call to Order, 1

Clarke County

 Demand for Hearing

 Swine Graphics Enterprises ADLV

 Sow Farm, 1

Commissioners Absent, 1

Commissioners Present, 1

D

Demand for Hearing

 Clarke County

 Swine Graphics Enterprises ADLV

 Sow Farm, 1